

Agenda

Item #4



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: December 19, 2008

Re: Summary of Statute Changes Proposed by Staff

The staff has drafted some proposed changes to the statutes within the Commission's jurisdiction for your consideration. If you approve of them, the Commission may submit them to the Legislature by February 2, 2009 (90 days after the general election). Authority for the Commission to submit legislation is provided in 1 M.R.S.A. § 1009. In recent years, the legislative committee overseeing the Commission has been very receptive to changes proposed by the Commission.

I am presenting these to you with one more meeting before the February 2 deadline in case you have any further assignments for me in connection with the proposed changes. That meeting is on January 29.

The changes are attached to this explanatory memo. Because they are lengthy, I have omitted sections of the law for which we are not proposing any changes. You may wish to refer to your notebook of statutes for context, if you are interested in the surrounding statutes.

Many of the changes are technical, and are intended to make the statutes more clear and consistent rather than to introduce different policies. Thank you for your consideration of them.

CAMPAIGN REPORTS & FINANCES LAW
CHAPTER 13 OF ELECTION LAW (TITLE 21-A)

Subchapter II (This subchapter relates to campaign finance reporting by candidates for legislative and county office, and for municipal office in the 13 towns and cities in Maine with a population of 15,000 or more. The subchapter also requires reporting by party committees and by groups making independent expenditures.)

§ 1011 – Application of subchapter II

To eliminate confusion, the staff proposes deleting a reference to ballot questions (referenda) in this section. The language mistakenly states that municipal ballot questions are governed by Subchapter II. In fact, they are governed by Subchapter IV (the PAC law).

§ 1012(5) – Definition of party candidate listing (slate card)

A party candidate listing (also known as a slate card) is a list of three or more candidates included in a communication to voters such as a mailer or advertisement. Slate cards are exempt from the independent expenditure reporting requirement. Section 5(D) lists categories of information which may be included in a party committee listing. The staff proposes an additional category of information to provide party committees with more flexibility in communicating with their members.

§ 1014(3-A) – Reporting in-kind printed materials received by candidates and others

This subsection describes how a candidate or political action committee must report the receipt of in-kind printed materials. In the view of the staff, the current language in subsection 3-A is confusing. The first sentence suggests that the materials be reported as an in-kind contribution (Schedule A-1 of the candidate reporting form). The last sentence of the subsection (on the following page) suggests that the materials should be reported as an expenditure by the candidate (Schedule B for candidates). We suggest deleting the last sentence.

§ 1014-A – Endorsements

The staff suggests deleting this section because it was invalidated by the Maine Supreme Judicial court in the suit brought by Michael Mowles.

§§ 1017(2)(F) and (3-A)(E) – Reporting a post-election debt on semiannual reports

Under these parallel provisions, if the campaign of a traditionally financed candidate has surplus funds over \$100 or a “deficit” over \$100 (i.e., an unpaid loan or debt), the campaign is required to file semiannual campaign finance reports every January 15th and July 15th indefinitely until the surplus is disposed of or the deficit is liquidated.

A small number of campaigns receive loans (usually from the candidate) or owe debts to vendors and are unable or unwilling to satisfy these obligations for some time. Some campaigns have filed campaign finance reports for several years which may be of little interest to the public. In order to focus the time of Commission staff and former candidates on higher priorities, the staff proposes that unpaid loans or debts that remain unpaid four years after the election in which they were incurred be considered liquidated or

forgiven, which would terminate the responsibility of the candidate to file semiannual reports.

§ 1017(3-A)(D-1) – Campaign finance report due 42 days before an election

In 2008, the Legislature added paragraph D-1, which required that candidates file a campaign finance report by 5:00 p.m. on the 42nd day before a general election. The staff proposes that the report be due at 11:59 p.m. in conformity with the other candidate filing deadlines. The staff also suggests that the report not be required for candidates for municipal office. We believe the Legislature likely did not intend the requirement to apply to municipal candidates, and the Commission staff has received informal comments from municipal clerks that this report is not necessary.

§ 1017(3-B)(B)(1) – Accelerated report due 42 days before an election

Paragraph 3-B(B) imposes an additional filing requirement on a traditionally financed candidate with a Maine Clean Election Act opponent if the traditional candidate has raised private contributions totaling more than the initial Maine Clean Election Act distribution paid to the opponent. These candidates are required to file “accelerated reports” under paragraph (3-B)(B), which are summary reports showing total contributions received by the traditionally financed candidate to date. Because in 2008 the Legislature required that all legislative candidates file a more complete, fully itemized report on the 42nd day before the election, it is unnecessary to require an accelerated report on the same deadline.

§ 1017(3-B)(B)(last sentence) – Accelerated report

The staff proposes deleting “1% in excess of,” which was a concept that the Legislature deleted from paragraph A in 2007 at the suggestion of the Commission. We believe it was an oversight that this language was retained in the last sentence of paragraph B.

§ 1017(5) – Paying campaign funds to members of the candidate’s immediate family and household

In 2008, the Legislature required candidates to disclose payments to members of the candidate’s immediate family or household. A number of proposals were made to the Legislature, and the final three provisions enacted by the Legislature conflicted slightly:

- 21-A M.R.S.A. § 1017(5) imposed a reporting requirement on a candidate if the candidate made a payment to a member of the candidate’s household (regardless of family status). Likewise, a prohibition in 21-A M.R.S.A. § 1125(6-B) on payments of Maine Clean Election Act funds applied to payees who are members of the candidate’s household.
- In contrast, the Legislature applied a separate reporting requirement for Maine Clean Election Act candidates if they paid MCEA funds to members of the

candidate's immediate family, regardless whether the relative resided in the same household as the candidate. (21-A M.R.S.A. § 1125(12))

The Commission staff proposes changes to all three of these provisions so that they all apply to members of the candidate's household and members of the candidate's immediate family.

§ 1017(5-A)(B) – Reporting proceeds from sale of donated items at an auction

This section relates to how candidates report the proceeds of items that are sold at an auction. The section contains a reference to a candidate's duty under §§ 1017(2)(F) and (3-A)(E) to file semiannual reports if they have a post-election surplus or deficit. The reporting threshold referred to in this section should be amended from \$50 to \$100 to be consistent with the threshold in §§ 1017(2)(F) and (3-A)(E).

§§ 1017-A(2) and (3) – Candidate-related expenditures reported by party committees

The staff proposes a clarification that party committees must report expenditures made to "support or oppose a candidate," rather than the current requirement of reporting expenditures made "on behalf of a candidate."

§ 1017-A(4-A)(A) – Quarterly reports filed by state party committees

This paragraph sets forth the filing schedule for state party committees to file quarterly campaign finance reports. The staff recommends changing the end dates for two of the reports so that they conclude on December 31 and June 30 to correspond with the quarters of the calendar year. We have proposed a similar change in the PAC filing schedule in § 1059(2).

§ 1017-A(4-B)(A)(2) – Filing schedule for municipal, district, and county committees

In 2007, at the suggestion of the Commission, the Legislature amended language in this subparagraph to require a pre-election report for local party committees due 11 days before a general election. Unfortunately, the language proposed by the Commission staff could be read to imply that a report is also required 11 days before a primary election, which was not our intention. The staff proposes the insertion of the word "general" to clarify that local party committees do not have to file campaign finance reports on the 11th day before a primary election, which we believe is unnecessary.

§ 1020-A(2) – Mitigating factors for a late-filing penalty

The first insertion would clarify that the Commission may waive a penalty in part if the penalty was disproportionate to certain factors. This would give the Commission more flexibility in setting appropriate penalties. The second insertion expressly permits the Commission to waive penalties due to interruptions in Internet service.

§ 1020-A(5-A)(A) – Maximum penalties for late reports

Section 1020-A(5-A) imposes maximum amounts for late-filing penalties calculated under subsection 4. The staff proposes inserting a reference to the new 42-day pre-general report enacted in 2008 in § 1020-A(3-A)(D-1), so that a maximum penalty of \$5,000 will apply to the late filing of this report as well.

§§ 1020-A(6) and (7) – Requesting a waiver of a civil penalty

This section sets forth the Commission's procedures when a candidate files a report late and requests a waiver of the late-filing penalty. The Commission's actual practices when a candidate fails to file a report have differed slightly from the procedures described in this section. The Commission staff proposes amending subsections 6 and 7 to conform to the Commission staff's actual practice.

Subchapter IV (This subchapter relates to campaign finance reporting by political action committees and ballot question committees.)

§ 1051 – Reference to fairness doctrine

The staff proposes deleting the reference to broadcasts formerly required under the Fairness Doctrine. The doctrine was abolished in 1987. Under the policy, broadcasters were required to present controversial issues of public importance and to do so in a manner that was equitable and balanced. This deletion was suggested by the current lobbyist for the Maine Association of Broadcasters.

§ 1052(5) – PAC definition

In 2008, at the suggestion of the Commission, the Legislature amended paragraphs (A)(4) and (A)(5) of the definition of the term 'political action committee.' The 2008 Commission's amendment focused on an organization's spending to influence an election over certain thresholds (\$1,500 and \$5,000). Upon further reflection, the Commission staff proposes that an organization's receipt of contributions made for the purpose of influencing an election should also trigger PAC status, as it does in the campaign finance laws of other states.

§ 1053 (last sentence) – Initial campaign finance report due at time of PAC registration

In 2008, the Legislature simplified the registration requirement for PACs, and it included a requirement that a PAC must file an initial campaign finance report at the time of registration. The staff proposes moving this initial reporting requirement to the first sentence of § 1059 where the other reporting deadlines for PACs are listed.

§ 1053-A – PACs influencing municipal elections

The staff proposes a new subsection relating to PACs which are influencing candidate or ballot question elections at the municipal (rather than statewide) level. This proposed section is to clarify current requirements and bring attention to them, not to alter them.

Under the proposed new section, PACs formed primarily to influence a municipal election must register and file reports with the municipal clerk. A statewide PAC, which already exists and is registered with the Commission because it is influencing statewide elections and which engages in financial activity to influence a municipal election, would be required to file a copy of its Commission report with the municipal clerk.

§ 1053-B – Out-of-state PACs

Currently, the PAC law is confusing as it relates to PACs which are organized outside of Maine. Section 1058 directs out-of-state PACs to file with the Commission hard-copies of their out-of-state PAC forms. In practice, out-of-state PACs have adopted different practices. Some register with the Commission and file “our” reports electronically on our website in the same manner as in-state PACs. Other out-of-state PACs follow the direction in § 1058 and mail to us paper copies of their Federal Election Commission (FEC) reports according to FEC deadlines. This disclosure is not particularly helpful for public access to the information.

The staff proposes amending § 1058 (discussed below), and inserting a new § 1053-B clarifying that out-of-state PACs must register with the Commission and file the Commission’s reports in the same manner as in-state PACs. We propose one exception in the statute.

§ 1056-B (first sentence) – Ballot question committees

Ballot question committees are organization which spend more than \$5,000 to influence a statewide or municipal ballot question, but which do not qualify as a PAC. The staff proposes deleting the reference to soliciting contributions in the first line of § 1056-B. We suggest that if a committee is receiving more than \$5,000 in contributions for the purpose of influencing a ballot question, the committee should be considered a ballot question committee – regardless of who solicited the contributions or whether there was any solicitation at all.

§ 1056-B(1) – Reporting schedule for ballot question committees

The staff proposes a statutory change which specifies that ballot question committees file campaign finance reports according to the schedule that applies to PACs under § 1059. Currently the statute directs the Commission to establish a filing schedule, which it has in Chapter 1, Section 11 of the Commission rules. The staff proposes deleting the requirements in Chapter 1, Section 11, and simply referring to the PAC filing schedule in

statute. The staff also proposes a requirement that ballot question committees must file reports electronically and terminate in the same manner as PACs.

§ 1056-B(2) – Reporting occupation information for contributors

Under current law, candidates, PACs, and party committees must report the occupation and principal place of business of its contributors. The staff proposes that ballot question committees should make similar disclosure.

§§ 1056-B(4) and 1057 – Requirement for PACs and ballot question committees to keep records

Currently, the PAC law contains conflicting provisions regarding how long PACs must keep records of their contributions and expenditures. Section 1054 requires record-keeping for four years, and § 1057 requires that records be kept until 10 days after the next election. The staff proposes that the record-keeping requirement be four years for both PACs and ballot question committees.

§ 1058 – Duty of PACs to file campaign finance reports

This section sets forth the requirement that PACs must report their campaign finances to the Commission. The staff proposes an amendment to simplify this section. As described above, we have proposed new sections 1053-A and 1053-B to clarify reporting obligations for municipal and out-of-state PACs.

§ 1059 – Filing schedule for PACs

The staff proposes that the requirement to file an initial PAC report at the time of registration be moved to the first sentence of § 1059 from § 1053. In paragraph 2(A), the staff proposes that quarterly reports filed by PACs would cover activity through December 31 and June 30 to correspond to the end of quarters of the calendar year.

§ 1060(4) – Expenditures reported by PACs

The staff proposes that PACs must report expenditures made “to support or oppose” candidates, ballot questions, and political committees,” rather than merely expenditures made “on behalf of” a candidate or political committee.

§ 1061 – Dissolution of PACs

Under current law, political action committees which have an outstanding loan, debt, or other obligation are prohibited from dissolving. As a result, some PACs have filed reports with the Commission for years because of longstanding debt that they could not resolve. The Commission staff proposes that PACs with an unpaid loan, debt, or obligation be

permitted to terminate. The proposed amendment would also specify that PACs must dispose of any surplus funds at the time of termination and report the disposition of funds.

§ 1062-A(1) – Failure to register as a PAC or ballot question committee

The staff proposes an insertion that the Commission may assess a penalty if a ballot question committee fails to register with the Commission or a municipal clerk.

§ 1062-A(2) – Waiver of late-filing penalties

The staff proposes an insertion that the Commission may partially waive a penalty if the penalty is disproportionate to certain factors.

§ 1062-A(4) – Maximum penalties for late reports

The staff proposes that a single \$10,000 maximum apply to late-filing penalties for any campaign finance report required for a PAC or ballot question committee, rather than different maximums for different reports.

§§ 1062-A(5) and (6) – Requests for waiver of civil penalties

This section sets forth the Commission's procedures when a political action committee or ballot question committee files a report late and requests the Commission to waive the late-filing penalty. The Commission staff's actual practices when a committee files a report late have differed slightly from the procedures described in these subsections. The staff proposes amending subsections 5 and 6 to conform to the staff's actual practice.

§ 1062-A(8-A) – Penalties for failing to file a report

The proposed change clarifies that the Commission may assess a civil penalty for altogether failing to file a campaign finance report (as opposed to filing a report late). The staff believes that was the Legislature's intention when subsection 8-A was enacted at the request of the Commission. The staff proposes that the maximum penalty for failing to file a campaign finance report by a political action committee or ballot question committee would be \$10,000 for any report.

MAINE CLEAN ELECTION ACT
CHAPTER 14 OF ELECTION LAW (TITLE 21-A)

§ 1125(5)(D-3) – Certification of Maine Clean Election Act candidates

In 2007, the Legislature enacted paragraphs D-2, D-3, and D-4, which created additional standards which a candidate must meet to qualify for public funding under the Maine Clean Election Act (MCEA). Also, the Legislature enacted subsection 5-A which

provided standards by which the Commission could disqualify a candidate who was already certified.

The staff proposes an amendment to paragraph (D-3) which would prevent a candidate for qualifying for MCEA funding if he or she had substantially violated provisions of the Maine Clean Election Act or the campaign finance and reporting law. This would bring paragraph D-3 into conformity with paragraph 5-A(H). One potential application of the amended paragraph D-3 could come into play if the Commission found that a candidate spent MCEA on personal expenses. The Commission could potentially prevent the candidate from participating in the MCEA program in a future election.

§ 1125(6) – Prohibiting self-enrichment through MCEA campaign funds

The staff proposes an insertion prohibiting MCEA candidates from using public funds to compensate themselves or their sole proprietorship for providing services to their own campaigns.

§§ 1125(6-B) and (12) – Payments of MCEA funds to members of the candidate's immediate family and household

In 2008, the Legislature required candidates to disclose payments to members of the candidate's immediate family or household. A number of proposals were made to the Legislature, and the final three provisions enacted by the Legislature conflicted slightly:

- 21-A M.R.S.A. § 1017(5) imposed a reporting requirement on a candidate if the candidate made a payment to a member of the candidate's household (regardless of family status). Likewise, a prohibition in 21-A M.R.S.A. § 1125(6-B) on payments of Maine Clean Election Act funds applied to members of the candidate's household.
- The Legislature applied a separate reporting requirement for Maine Clean Election Act candidates if they paid MCEA funds to members of the candidate's immediate family, regardless whether the relative resided in the same household as the candidate. (21-A M.R.S.A. § 1125(12))

The Commission staff proposes changes to all three of these provisions so that they all apply to members of the candidate's household and to members of the candidate's immediate family.

Also, in interpreting the prohibition in § 1125(12), some Commission members expressed that they did not wish to pre-approve candidates' payments to family members that fell within the statutory exception based on information provided by the candidate in advance of making the payment. The staff proposes deleting the language in the statute that suggests pre-approval.

§ 1125(12-A) – Record-keeping requirement for MCEA candidates

The Commission staff believes that the roughly \$3 million in public funds provided to legislative candidates every election year would be more accountable if candidates were required to keep records of their expenditures for four years, rather than the current requirement of two years. The staff cannot audit every candidate every election cycle, and may need in some cases to audit candidates who have run in previous elections.

§ 1125(12-C) – Documentation of services

The staff has observed an increase in MCEA candidates who are paying larger amounts for staff and campaign workers. To verify that these payments are for valuable campaign-related services, the staff proposes reasonable documentation requirements for candidates who pay a campaign worker more than \$250 in an election.

§ 1128 – Study Report on Maine Clean Election Act

The Commission staff will be publishing a study report later this year updating the Legislature on the operation of the MCEA program. The staff proposes changing the timing of this report so that it is published during the first regular session of each new Legislature just after a gubernatorial election. We believe this will lead to a better re-evaluation of the MCEA program.

LEGISLATIVE ETHICS LAW **CHAPTER 25 OF GENERAL PROVISIONS LAW (TITLE 1)**

§ 1012(6) – Definition of immediate family

The Commission staff proposes inserting the relationship of domestic partner to the definition of the term “immediate family.” This would enlarge slightly the scope of the situations considered to be a conflict of interest under § 1014(1) for Legislators. For example, if someone affected by legislation made a gift to the domestic partner of a Legislator in order to influence the Legislator in the performance of his or her duties, that would constitute a conflict of interest.

§ 1013(3-A) – Confidentiality of legislative ethics complaints

In 2008, the Legislature amended the Commission’s procedures in § 1013 for considering legislative ethics complaints. In subsection 3-A, the amendment inserted two sentences which appear to conflict with each other regarding the circumstance when a complaint is filed with the Commission and the Commission decides not to pursue the complaint because of insufficient merit or lack of jurisdiction. One sentence in subsection 3-A would require the complaint to be kept confidential:

If the commission does not vote to pursue the complaint, the complaint and records relating to the investigation of that complaint remain confidential and are not public records unless the Legislator against whom the complaint is made submits a written request that the complaint and all accompanying materials be made public.

Under the next sentence, the complainant would be permitted to disclose information in the complaint:

This subsection does not prohibit a complainant from disclosing information that the complainant provided to the commission as part of the complaint or investigation once the commission has determined not to pursue the complaint or the investigation of a complaint is complete.

The staff believes the statutory direction to the Commission on this issue of confidentiality should be very clear. In order to resolve the inconsistency, the staff proposes an insertion which takes the latter approach and which would allow anyone (including the Commission) to disclose information in a legislative ethics complaint after the Commission decided not to pursue it.

§ 1014(2) – Violation of legislative ethics

In 2008, the Legislature introduced a new term, “violation of legislative ethics,” in section 1014. This replaced the phrase “conflict of interest” in the heading of § 1014 and in the first sentences of subsections 1 and 3. In subsection 2 (relating to a Legislator unduly influencing a state agency), the staff proposes deleting the term “conflict of interest” and replacing it with “violation of legislative ethics” to be consistent.

LOBBYIST DISCLOSURE LAW **TITLE 3, CHAPTER 15**

§ 312-A(10) – Definition of lobbyist

The staff recommends creating a new exception to the definition of lobbyist for persons who lobby for a non-profit or other organization on a volunteer basis and who receive reimbursement for their travel expenditures. In the view of the staff, the proposed change would not create a loophole, and would allow more viewpoints to be provided to the Legislature on behalf of organizations which are reluctant to take on the expense and paperwork involved with formally registering a lobbyist.

The staff was motivated to propose this exception by a disabled veteran who wished to continue lobbying on behalf of a veterans organization, but the organization did not wish to register a lobbyist, pay a \$200 fee, and file monthly reports. This same exception could apply to unincorporated community groups or religious institutions.

§ 317(2) – Signatures required for annual report

Lobbyists are now required to file annual and monthly reports electronically on the Commission's website, rather than on paper reporting forms. The staff proposes deleting the reference to a report being "signed" by the lobbyist or client.

Thank you very much for your consideration of the changes proposed in this memorandum.

CHAPTER 13
CAMPAIGN REPORTS AND FINANCES
SUBCHAPTER II
REPORTS ON CAMPAIGNS FOR OFFICE

21A § 1011. Application

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election.

Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 ~~and referenda as defined in Title 30-A, section 2502, subsection 2~~ are governed by this subchapter, with the following provisions:

1. Role of the municipal clerk; commission. For candidates for municipal office, the municipal clerk is responsible for any duty assigned to the commission in this subchapter related to the registration of candidates, receipt of reports and distribution of information or forms, unless otherwise provided. Notwithstanding any other deadline set forth in this chapter, candidates must file their reports by the close of business on the filing deadline established for the office of the municipal clerk. The commission retains the sole authority to prescribe the content of all reporting forms.

2. Exemptions. Exemptions for municipal candidates from the reporting requirements of this subchapter are governed by this subsection.

A. At the time a municipal candidate registers under section 1013-A, the candidate may notify the municipal clerk in writing that the candidate will not accept contributions, make expenditures or incur financial obligations associated with that person's candidacy. A candidate who provides this written notice is not required to appoint a treasurer or to meet the filing requirements of this section as long as the candidate complies with the commitment.

B. The notice provided to the municipal clerk in paragraph A may be revoked. A written revocation must be presented to the municipal clerk before the candidate may accept contributions, make expenditures or incur obligations associated with that person's candidacy. A candidate who has filed a notice with the municipal clerk under paragraph A and accepts contributions, makes expenditures or incurs obligations associated with that person's candidacy prior to filing a revocation may be assessed a penalty of \$10 for each business day that the revocation is late, up to a maximum of \$500. This penalty may be imposed in addition to the penalties assessed under other sections of this Title.

21A § 1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

[DEFINITIONS (1) – (4) OMITTED]

5. Party candidate listing. "Party candidate listing" means any communication that meets the following criteria.

- A. The communication lists the names of at least three (3) candidates for election to public office.
- B. The communication is distributed through public advertising such as broadcast stations, cable television, newspapers and similar media, and through direct mail, telephone, electronic mail, publicly accessible sites on the Internet or personal delivery.
- C. The treatment of all candidates in the communication is substantially similar, except for any requirement under federal law applicable to communications regarding federal candidates.
- D. The content of the communication is limited to:
 - (1) The identification of each candidate, with which pictures may be used;
 - (2) The offices sought;
 - (3) The offices currently held by the candidates;
 - (4) The party affiliation of the candidates and a brief statement, including campaign slogans, about the party's or the candidates' positions, philosophy, goals, accomplishments or biographies;
 - (5) Encouragement to vote for the candidates identified;
 - (6) Information about voting, such as voting hours and locations; ~~and~~
 - (7) Campaign or party logos; and
 - (8) Information about party committee business or activities unrelated to a candidate.

If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing.

21A § 1014. Publication or distribution of political statements

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and

other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the Commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee that is made through a broadcasting station is not required to state the address of the candidate or committee that financed the communication.

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

2-A. Communication. Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election or 35 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

~~The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.~~

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A, without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the Commission regarding whether or not the communication requires the disclosure.

4. Enforcement. An expenditure, communication or broadcast made within 20 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than \$200. The person who financed the communication or who committed the violation shall correct the violation within ten (10) days after receiving notification of the violation from the commission. An expenditure, communication or broadcast made more than 20 days before the election that results in a violation of this section may result in a civil fine of no more than \$100 if the violation is not corrected within ten (10) days after the person who financed the communication or other person who committed the violation receives notification of the violation from the Commission. If the Commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication, or whether the communication was or was not authorized by the candidate, the Commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

21A § 1014 A. Endorsements of political candidates

1. Definition. For purposes of this section, "endorsement" means an expression of support for the election of a clearly identified candidate by methods including but not limited to the following: broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails or other similar types of general public political advertising or through computer networks, flyers, handbills, bumper stickers and other nonperiodical publications.

2. Authorization. A candidate may not use an endorsement unless the endorser has expressly authorized its use. The communication must clearly and conspicuously state that

the endorsement has been authorized. If applicable, the communication must also satisfy the requirements of section 1014.

3. Civil forfeiture. ~~A candidate who uses an endorsement without the authorization of the endorser violates this section and is subject to a civil forfeiture of no more than \$200.~~

4. Enforcement. ~~The full amount of the forfeiture is due within 30 days of the Commission's determination that an endorsement has been used without the endorser's authorization. The Commission is authorized to use all necessary powers to collect the forfeiture. If the full amount of the forfeiture is not collected within the 30 days after the Commission has determined that a violation of this section has occurred, the Commission shall report to the Attorney General the name of the person who has failed to pay. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the forfeiture. This action must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.~~

21A § 1017. Reports by candidates

1. Federal candidates. (REPEALED)

2. Gubernatorial candidates. A treasurer of a candidate for the office of Governor shall file reports with the Commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the end date of the prior report filed.

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of \$1,000 or made or authorized expenditures in excess of \$1,000, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 49th day before the election.

C. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date.

D. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more made after the 14th day before the election and more than 24 hours before 11:59 p.m. on the day of the election must be reported within 24 hours of those contributions or expenditures.

E. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$100 shall file reports semiannually with the Commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated or forgiven. Any deficit which remains unpaid four years after the election in which it was incurred will be considered liquidated or forgiven. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the Commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the end date of the previous report filing period. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

3. Other candidates. (REPEALED)

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the Commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the end date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

C. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more made after the 14th day before any election and more

than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 5-p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the Commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated or forgiven. Any deficit which remains unpaid four years after the election in which it was incurred will be considered liquidated or forgiven. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the Commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

3-B. Accelerated reporting schedule. Additional reports are required from nonparticipating candidates as defined in section 1122, subsection 5, pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under Chapter 14 and who receives, spends or obligates more than the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the Commission, within 48 hours of that event, a report with the Commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

B. A nonparticipating candidate who is required to file a report under paragraph A shall file no later than 5:00 p.m.:

~~(1) A report on the 42nd day before the date on which an election is held that is complete as of the 44th day before that date;~~

(2) For gubernatorial candidates only, a report on the 25th day before the date on which an election is held that is complete as of the 27th day before that date;

(3) A report on the 18th day before the date on which an election is held that is complete as of the 20th day before that date; and

(4) A report on the 6th day before the date on which an election is held that is complete as of the 8th day before that date.

The reports must contain the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures as of the end date of the reporting period.

The nonparticipating candidate shall file only those reports that are due after the date on which the candidate filed the report required under paragraph A.

C. A candidate who is required to file a report under paragraph A must file with the Commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 11:59 p.m. on the date of that election:

(1) For a candidate for Governor, a single expenditure of \$1,000;

(2) For a candidate for the state Senate, a single expenditure of \$750; and

(3) For a candidate for the state House of Representatives, a single expenditure of \$500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.

The Commission shall provide forms to facilitate compliance with this subsection. The Commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds ~~1% in excess of~~ the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The Commission shall send notification of this registration requirement and report forms and schedules to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. If the payee is a member of the candidate's household or is a member of the candidate's immediate family or household, the candidate must disclose the candidate's the family relationship to the payee in a manner prescribed by the commission.

The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

5-A. Valuation of contributions sold at auction. Any contribution received by a candidate that is later sold at auction must be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 2 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction.

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 2 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of ~~\$100~~\$50 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate.

[SUBSECTIONS (6) – (9) OMITTED]

21A § 1017-A. Reports of contributions and expenditures by party committees

1. Contributions. A party committee shall report all contributions in cash or in kind from a single contributor that in the aggregate ~~in a campaign~~ total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures ~~in cash or in kind of the committee made on behalf of~~ made to support or oppose a candidate, or made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

A. The name of each candidate, political committee, political action committee or party committee;

B. The office sought by a candidate and the district that the candidate seeks to represent; and

C. The date, amount and purpose of each expenditure.

3. Other expenditures. Operational expenses and other expenditures ~~in cash or in kind of the party committee that are not made on behalf of~~ to support or oppose a candidate, or on behalf of a political committee, political action committee or campaign party committee must be reported separately. The party committee shall report:

- A. The name and address of each payee ~~or recipient~~;
- B. The purpose for the expenditure; and
- C. The date and amount of each expenditure.

4. Filing schedule. (REPEALED)

4-A. Filing schedule. A state party committee shall file its reports according to the following schedule.

- A. Quarterly reports must be filed by 11:59 p.m.:
 - (1) On January 15th and must be complete up to December 31st~~January 5th~~;
 - (2) On April 10th and must be complete up to March 31st;
 - (3) On July 15th and must be complete up to June 30th~~July 5th~~; and
 - (4) On October 10th and must be complete up to September 30th.

- B. General and primary election reports must be filed by 11:59 p.m.:
 - (1) On the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and
 - (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed by 11:59 p.m.:

- (1) On the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within ten (10) days of the filing deadline established in paragraph B or C.

E. A state party committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure.

4-B. Filing schedule for municipal, district and county party committees. Municipal, district and county party committees shall file reports according to the following schedule.

- A. Reports filed during an election year must be filed with the Commission by 11:59 p.m. on:

- (1) July 15th and be complete as of June 30th;
- (2) The 11th day before the date on which the general election is held and must be complete up to the 14th day before that date; and
- (3) January 15th and be complete as of December 31st.

B. Reports filed during a nonelection year must be filed by 11:59 p.m. on:

- (1) July 15th and be complete as of June 30th; and
- (2) January 15th and be complete as of December 31st.

C. Any expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of the election must be reported within 24 hours of that expenditure.

[DEFINITIONS (4-C) – (8) OMITTED]

21A § 1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the Commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The Commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the Commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the Commission shall determine whether a report satisfies the requirements for timely filing. The Commission may waive a penalty in whole or in part if the Commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The Commission may waive the penalty in whole or in part if the Commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the Commission staff;
- C. Failure to receive notice of the filing deadline; or
- D. Other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the Commission of any late reports subject to a penalty.

4. Basis for penalties. (REPEALED)

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least two (2) days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the Commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate, whichever is greater, exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The Commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the Commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

5. Maximum penalties. (REPEALED)

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

- A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; section 1017, subsection 4; and section 1019-B, subsection 3;

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E;

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E;

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the Commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

6. Request for a waiver of civil penalty commission-determination. If a candidate or committee has failed to file a report required under this subchapter, the Commission staff shall mail a notice by certified mail to the candidate or committee treasurer within ~~Within~~ three (3) business days following the filing deadline, informing the candidate or treasurer that no report was received. If a candidate or committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the a candidate and/or treasurer whose registration or campaign finance report was is not received by 11:59 p.m. on the deadline date, informing them of the preliminary penalty calculated basis for calculating penalties under subsection 4 and providing them with an opportunity to request a full or partial waiver of the preliminary penalty by the members of the commission-determination. The notice must be sent by certified United States-mail. Any request for a waiver determination must be made within ~~10~~ fourteen (14) calendar days of receipt of the Commission's notice. The ~~ten-day~~ fourteen-day period during which a determination waiver may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the ~~ten-day~~ fourteen-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a waiver determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the Commission. If no waiver is requested, the preliminary penalty will be considered final, and the Commission staff shall mail a final notice of the penalty to the candidate or treasurer.

7. Final notice of penalty. If a determination has been requested by the candidate and made by the commission, notice of the Commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

~~If no determination is requested, the Commission staff shall calculate the penalty as prescribed in subsection 4 and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the Commission.~~

8. Failure to file report. The Commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to

file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the Commission has sent the notices required by this subsection is guilty of a Class E crime.

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

9. List of late-filing candidates. The Commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

10. Enforcement. The Commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after issuing the notice of penalty, the Commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

SUBCHAPTER IV

REPORTS BY POLITICAL ACTION COMMITTEES

21A § 1051. Application

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures for the election of state, county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter.

~~This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine."~~

21A § 1052. Definitions**[DEFINITIONS (1) – (4) OMITTED]****5. Political action committee.** The term "political action committee:"**A. Includes:**

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to influence the outcome of an election, including a candidate election or ballot question;
- (2) **(REPEALED)**
- (3) **(REPEALED)**
- (4) Any organization, including any corporation or association, that has as its major purpose initiating, promoting, defeating or influencing a candidate election, campaign or ballot question and that receives contributions or make expenditures aggregating spends more than \$1,500 in a calendar year for that purpose, including for the collection of signatures for a direct initiative or referendum in this State; and
- (5) Any organization that does not have as its major purpose promoting, defeating or influencing candidate elections but that receives contributions or make expenditures aggregating spends more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office.

B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection 2; or
- (3) A party committee under section 1013-A, subsection 3.

21A § 1053. Registration

Every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that makes expenditures in the aggregate in excess of \$1,500 and every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (5), that makes expenditures in the aggregate in excess of \$5,000 must register with the Commission within 7 days of exceeding the applicable amount on forms prescribed by the Commission. These forms must include the following information and any additional information reasonably required by the Commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

2. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified; and

3. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the Commission as soon as the committee knows this information.

Every change in information required by this section must be included in an amended registration form submitted to the Commission within ten (10) days of the date of the change. The committee must file an updated registration form every two (2) years between January 1st and March 1st of an election year. The commission may waive the updated registration requirement for newly registered political action committees or other registered political action committees if it determines that the requirement would cause an administrative burden disproportionate to the public benefit of updated information.

~~At the time of registration, the political action committee shall file an initial campaign finance report disclosing all information required by section 1060.~~

21-A § 1053-A. Municipal elections

Organizations which qualify as political action committees under section 1052, subsection 5 and which are organized to influence elections on the municipal ballot in towns or cities with a population of 15,000 or more shall register and file reports with the municipal clerk as required by Title 30-A, section 2502. The reports must be filed in accordance with the reporting schedule in section 1059 and must contain the information listed in section 1060. A political action committee registered with the commission and that receives contributions or makes expenditures relating to a municipal election shall file a copy of the report containing such contributions or expenditures with the clerk in the subject municipality.

21-A § 1053-B. Out-of-state political action committees

A political action committee organized outside of this state shall register and file reports with the commission in accordance with sections 1053 and 1058. The committee is not required to register and file reports if the committee's only financial activity within the state is to make contributions to candidates, party committees, political action committees, or ballot question committees registered with the commission or a municipality and the committee has not raised and accepted any contributions during the calendar year to influence an election or campaign in this state.

21A § 1056-B. Ballot question committees

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission in accordance with this section. ~~In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.~~ Within seven days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the Commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question. The Commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee. In the case of a municipal election, the registration and reports must be filed with the clerk of that municipality.

1. Filing requirements. A report required by this section must be filed with the Commission according to ~~the~~ reporting schedule ~~that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.~~ After completing all financial activity, the committee shall terminate its campaign finance reporting in accordance with section 1061. The committee shall file each report required by this section through an electronic filing system developed by the Commission unless granted a waiver under section 1059, subsection 5.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; ~~and the name and address of each contributor, and, each payee or creditor, and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$100 in the aggregate.~~ The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes. The definitions of “contribution” and “expenditure” in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2.A. Contributions. For the purposes of this section, “contribution” includes, but is not limited to:

- A. Funds that the contributor specified were given in connection with a ballot question;
- B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question;
- C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ballot question when viewed in the context of the contribution and the recipient’s activities regarding a ballot question; and

D. Funds or transfers from the general treasury of an organization filing a ballot question report.

3. Forms. A report required by this section must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for four years~~one year~~ following the election to which the records pertain.

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and all expenditures made for those purposes.

B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

21A § 1057. Records

Any political action committee that is required to register under section 1053 or 1053-B ~~makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State~~ shall keep records as provided in this section. ~~Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee for four years until ten (10) days after the next election following the election to which the records pertain.~~

1. Details of records. The treasurer of a political action committee must record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;
- C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and
- D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to aggregate contributions from a single donor of \$50 or less for an election or referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

21A § 1058. Reports; qualifications for filing

A political action committee that is required to register under section 1053 or 1053-B with the Commission shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission according to the schedule in ~~—A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059.—A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized.—The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State.—The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized.—If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.~~

21A § 1059. Report; filing requirements

Committees required to register under section 1053, 1053-B, or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the filing deadline.

1. Contents; quarterly reports and election year reports. (REPEALED)

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports must be filed:

- (1) On January 15th and must be complete as of January 5th December 31st;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of July 5th June 30th; and
- (4) On October 10th and must be complete as of September 30th.

B. General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within ten (10) days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. Committees shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The Commission shall grant all reasonable requests for exceptions.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

1. Identification of candidates. The names of and offices sought by all candidates whom the committee supports, intends to support or seeks to defeat;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the committee;

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the committee supports or opposes;

4. Itemized expenditures. An itemization of each expenditure made to support or oppose or made on behalf of any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee supported or opposed or on whose behalf the expenditure was made; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The

Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization; and

7. Other expenditures. Operational expenses and other expenditures ~~in cash or in kind~~ that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office.

21A § 1061. Dissolution of committees

Whenever any political action committee determines that it will no longer ~~solicit or~~ accept any contributions, ~~incur any obligations, or make any expenditures to or on behalf of~~ any candidate, political committee, party committee or political action committee to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition or election and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. The committee must dispose of any surplus prior to termination. In the termination report, the committee shall report as a contribution any outstanding loan, debt, or obligation which the committee does not intend to pay. The commission may administratively terminate any committee which reports no financial activity other than an unpaid loan, debt, or obligation for a period of two years. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

21A § 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053, 1053-B, or a ballot question committee required to register under section 1056-B that fails to do so ~~in accordance with section 1053~~ or that fails to provide the information required by the Commission for registration may be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the Commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the Commission shall determine whether a required report satisfies the requirements for timely filing. The Commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The Commission may waive the penalty in whole or in part if the Commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency of the committee treasurer determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the Commission staff; or
- C. Other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a two-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least two (2) days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, as long as an original of the same report is received by the Commission within 5 calendar days thereafter.

4. Maximum penalties. The maximum penalties under this subchapter are \$10,000 for reports required under sections 1056-B or 1059, subsection 2, paragraphs B, C and E and \$5,000 for reports required under section 1059, subsection 2, paragraph A.

5. Request for a waiver of civil penalty commission determination. If a committee has failed to file a report required under this subchapter, the Commission staff shall mail a notice by certified mail to the treasurer of the committee within ~~Within~~ three (3) business days

following the filing deadline, informing the treasurer that no report was received. If a committee files a report required under this subchapter late, -a notice of preliminary penalty must be forwarded to the principal officer and treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing them of the preliminary penalty calculated basis for calculating penalties under subsection 3 and providing them with an opportunity to request a full or partial waiver of the preliminary penalty by the members of the commission determination. The notice must be sent by certified United States mail. A request for a waiver determination must be made within ten (10)-fourteen (14) calendar days of receipt of the Commission's notice. The fourteen-day ten-day-period during which a waiver determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the fourteen-day ten-day-period begins on the day the post office indicates it has given first notice of a certified letter. A principal officer or treasurer requesting a waiver determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the Commission. If no waiver is requested, the preliminary penalty will be considered final, and the Commission staff shall mail a final notice of the penalty to the treasurer of the committee.

6. Final notice of penalty. After a commission meeting, notice of the final determination of the Commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

~~If no determination is requested, the Commission staff shall calculate the penalty based on the provision of subsection 3 and shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the Commission.~~

7. List of late-filing committees. The Commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the Commission, the State may not prosecute a violation under this subsection.

8-A. Penalties for failure to file report. The Commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under sections 1056-B or 1059, subsection 2, paragraph B, C or E is \$10,000. The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph A is \$5,000.

9. Enforcement. The Commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to

pay the full amount of any penalty levied under this subchapter is a civil violation by the political action committee and its treasurer. Thirty days after issuing the notice of penalty, the Commission shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

CHAPTER 14
THE MAINE CLEAN ELECTION ACT

21A § 1125. Terms of participation [SUBSECTIONS (1) – (4) OMITTED]

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission or its executive director shall determine whether the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. Submitted the appropriate number of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions;
 - D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year;
 - D-2. Not been found to have made a material false statement in a report or other document submitted to the commission;
 - D-3. Not otherwise substantially violated the provisions of this chapter or Chapter 13~~had prior requests for certification denied on the basis of substantial violations of this chapter or Chapter 13 or certification revoked under subsection 5-A, paragraphs C to G;~~
 - D-4. Not failed to pay any civil penalty assessed by the commission under this Title, except that a candidate has 3 business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and
- E. Otherwise met the requirements for participation in this Act.

The commission or its executive director shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible after final submittal of qualifying contributions and other supporting documents required under subsection 4 but no later than 3 business days for legislative candidates and five (5) business days for gubernatorial candidates. The commission and its executive director may take additional time if further investigation is necessary to verify compliance with this Act as long as the commission notifies the candidate regarding the anticipated schedule for conclusion of the investigation.

A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

5-A. Revocation of certification. The certification of a participating candidate may be revoked at any time if the commission determines that the candidate or an agent of the candidate:

- A. Did not submit the required number of valid qualifying contributions;
- B. Failed to qualify as a candidate by petition or other means;
- C. Submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor;
- D. Misrepresented to a contributor the purpose of the qualifying contribution or obtaining the contributor's signature on the receipt and acknowledgement form;
- E. Failed to fully comply with the seed money restrictions;
- F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;
- G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or Chapter 13; or
- H. Otherwise substantially violated the provisions of this chapter or Chapter 13.

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within three (3) days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

5-B. Restrictions on serving as treasurer. A certified candidate may not serve as a treasurer or deputy treasurer for that candidate's campaign.

6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The candidate may not use fund revenues to compensate the candidate or a sole proprietorship of the candidate for campaign-related services. The commission shall publish guidelines outlining permissible campaign-related expenditures.

6-A. Assisting a person to become an opponent. A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent

of that candidate, may not assist another person in qualifying as a candidate for the same office if such a candidacy would result in the distribution of revenues under subsections 7 and 8 for certified candidates in a contested election.

6-B. Expenditures as payment to immediate family or household members.

A candidate may not make expenditures using fund revenues to pay ~~the candidate, a member of the candidate's immediate family or household or a business entity, corporation or nonprofit entity~~ in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest or nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director, or chief financial officer, unless the ~~candidate submits evidence according to procedures established by the commission that the expenditure is will be made:~~

- A. For a legitimate campaign-related purpose;
- B. To an individual or business that provides the goods or services being purchased in the normal course of their occupation or business; and
- C. In an amount that is reasonable taking into consideration current market value and other factors the commission may choose to consider.

For the purpose of this subsection, "business entity" refers to corporations, limited liability companies, limited partnerships, limited liability partnerships, and general partnerships, but does not include sole proprietorships of the candidate.

If a candidate uses fund revenues for an expenditure covered by this section, the candidate shall submit evidence demonstrating that the expenditure complies with the requirements of this section if requested by the commission. This subsection does not prohibit reimbursement to a member of a candidate's household when made in accordance with this chapter and rules adopted by the commission.

[SUBSECTIONS (7) – (11) OMITTED]

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues to a member of the candidate's immediate family or household or a business or nonprofit entity affiliated with a member of the candidate's immediate family or household, the candidate must disclose the candidate's family-relationship to the payee in a manner prescribed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

12-A. Required records. The treasurer shall obtain and keep;

A. Bank or other account statements for the campaign account covering the duration of the campaign;

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

The treasurer shall preserve the records for ~~four (4) to~~ (2) years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the Commission upon its request.

12-C. Documentation of services. Any certified candidate who agrees to pay in the aggregate \$250 or more to a vendor in compensation for campaign-related labor during an election cycle shall keep the documentation required by this section. Before services are provided, the candidate and vendor shall enter into a written agreement specifying in detail the services the vendor will provide and the basis for compensation to be paid by the candidate. The candidate shall obtain from the vendor periodic invoices or timesheets signed by the vendor containing a detailed description of services provided by the vendor during the period and number of hours worked during the period.

The candidate shall preserve the records for four (4) years following the candidate's final campaign finance report for the election cycle. The candidate shall submit photocopies of the records to the Commission upon its request.

[SUBSECTIONS (13) – (14) OMITTED]

21A § 1128. Study report

By ~~January 30, 2002~~ March 15, 2011, and every four years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.

CHAPTER 25 GOVERNMENTAL ETHICS

SUBCHAPTER II LEGISLATIVE ETHICS

1 § 1012. Definitions [DEFINITIONS 1-5, 7-10 OMITTED]

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

6. Immediate family. "Immediate family" means a Legislator's spouse, domestic partner or dependent children.

1 § 1013. Authority; procedures

1. Authority. The commission has authority:

- A. To issue, on request of any Legislator on an issue involving that Legislator, or on its own motion, written advisory opinions and guidance on problems or questions involving possible violations of legislative ethics;
- B. To investigate complaints alleging violation of legislative ethics against any Legislator, to hold hearings on those complaints if the commission determines it is appropriate and to issue findings of fact together with its opinion; and
- C. To administer the disclosure of sources of income by Legislators as required by this subchapter.

2. Procedure. The following procedures apply.

A. Requests for advisory opinions by members of the Legislature must be filed with the commission in writing and signed by the Legislator requesting the opinion and must contain such supporting data as the commission requires. Commission staff shall inform a Legislator upon that Legislator's request for an advisory opinion that written opinions issued by the commission are public and are submitted to the Clerk of the House and the Secretary of the Senate and entered into the legislative record. When preparing an advisory opinion on its own motion, the commission shall notify the Legislator concerned and allow the Legislator to provide additional information to the commission. In preparing an advisory opinion, either upon request or on its own motion, the commission may make such an investigation as it determines necessary. A copy of the commission's advisory opinion must be sent to the Legislator concerned and to the presiding officer of the legislative body of which the Legislator is a member.

B. (REPEALED)

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in section 1014 and 1015. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and 1015 that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

- (1) The Legislator against whom a complaint is filed must immediately be given a copy of the complaint and the name of the complainant.
- (2) The commission shall consider only complaints against Legislators in office at the time of the filing of the complaint and only complaints relating to activity that occurred or was ongoing within two (2) years of the complaint. Upon a majority vote of the commission, the commission shall conduct an investigation and hold hearings as it determines necessary.
- (3) The commission shall issue its findings of fact together with its opinion regarding the alleged violation of legislative ethics to the legislative body of which the Legislator concerned is a member. That legislative body may take whatever action it determines appropriate, in accordance with the Constitution of Maine.
- (4) If the commission determines that a Legislator has potentially violated professional standards set by a licensing board, its opinion and such other information as may be appropriate must be referred to the licensing board that oversees the Legislator's professional conduct.

C. When the conduct of a particular Legislator is under inquiry and a hearing is to be held, the Legislator must be given written notification of the time and place at which the hearing is to be held. Such notification must be given not less than ten (10) days prior to the date set for the hearing.

D. The commission has authority, through its chair or any member designated by the chair, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records the commission determines relevant. The State, its agencies and instrumentalities shall furnish to the commission any information, records or documents the commission designates as being necessary for the exercise of its functions and duties. In the case of refusal of any person to obey an order or subpoena of the commission, the Superior Court, upon application of the commission, has jurisdiction and authority to require compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as a contempt thereof.

E. The commission shall adopt rules consistent with due process for the conduct of investigations and hearings under this subchapter. Rules adopted pursuant to this

paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The commission is not bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

E-1. The commission may permit the complainant to make a presentation to the commission as part of its consideration whether to conduct an investigation or public hearing.

F. If the commission concludes that it appears that a Legislator has violated a criminal law, a copy of its findings of fact, its opinion and such other information as may be appropriate must be referred to the Attorney General. Any determination by the commission or by a legislative body that a violation of legislative ethics has occurred does not preclude any criminal action relating to the violation that may be brought against the Legislator.

G. If the commission determines that a complaint filed under oath is frivolous or filed in bad faith or if the complainant fails to appear at the hearing without being excused by the commission, the commission may order the complainant to pay to the Legislator against whom the complaint has been filed that Legislator's costs of investigation and defense, including any reasonable attorney's fees. This order is considered a final agency action, and the complainant may appeal the order pursuant to the Maine Administrative Procedure Act. If the commission determines that the complaint was filed in bad faith, the commission shall refer the case to the Attorney General for investigation.

Such an order does not preclude any other remedy available to the Legislator against whom the complaint has been filed, including, but not limited to, an action brought in Superior Court against the complainant for damages to the Legislator's reputation.

H. The commission shall file with the Clerk of the House and the Secretary of the Senate a copy of written advisory opinions and guidance issued by the commission that were formally requested by a Legislator and that were considered by the commission at a public meeting, with such deletions and changes as the commission considers necessary to protect the identity of the person seeking the opinions or others. The Clerk of the House shall keep a copy of such opinions and guidance in a special binder and shall finally publish them in the Legislative Record. The commission may exempt an opinion or a part of an opinion from release, publication or inspection if it considers such action appropriate for the protection of third parties and makes available to the public an explanatory statement to that effect.

I. A copy of the commission's findings of fact and opinions regarding complaints against Legislators must also be filed with the Clerk of the House and the Secretary of the Senate. The Clerk of the House shall keep them in a special binder and shall finally publish them in the Legislative Record.

J. **(REPEALED).**

K. When a Legislator has a question or problem of an emergency nature about a possible violation of legislative ethics or an issue involving that Legislator that arises during the course of legislative action, the Legislator may request an advisory opinion from the presiding officer of the legislative body of which the Legislator is a member. The presiding officer may issue an advisory opinion. An advisory opinion issued by the presiding officer must be in accordance with the principles of this subchapter, be in writing and be reported to the commission. The commission may then issue a further opinion on the matter. The presiding officer may refer such a question or problem directly to the commission, which shall meet as soon as possible to consider the question or problem.

L. The commission shall make reasonable efforts to resolve a complaint within 90 days of its filing.

3. Confidentiality. (REPEALED)

3-A. Confidentiality of records and proceedings relating to screening complaints alleging a violation of legislative ethics. Notwithstanding chapter 13, a complaint alleging a violation of legislative ethics is confidential and is not a public record until after the commission has voted pursuant to subsection 2, paragraph B-1 to pursue the complaint, and a commission proceeding to determine whether to pursue a complaint must be conducted in executive session. ~~If the commission does not vote to pursue the complaint, the complaint and records relating to the investigation of that complaint remain confidential and are not public records unless the Legislator against whom the complaint is made submits a written request that the complaint and all accompanying materials be made public. This subsection does not prohibit a complainant from disclosing information that the complainant provided to the commission as part of the complaint or investigation once the commission has determined not to pursue the complaint or the investigation of a complaint is complete.~~ If the commission determines not to pursue the complaint, the complaint is not confidential. This subsection does not prevent the commission from including general information about complaints in any report to the Legislature. Any person who knowingly breaches the confidentiality of a complaint investigation commits a Class D crime. This subsection does not prevent commission staff from disclosing information to a person from whom the commission is seeking information or evidence relevant to the complaint that is necessary to investigate the complaint or prevent the complainant or the Legislator against whom the complaint is made from discussing the complaint with an attorney or other person assisting them with the complaint. The commission or commission staff shall inform any person with whom they communicate of the requirement to keep any information regarding the complaint investigation confidential.

4. Confidentiality of records other than complaints. Commission records other than complaints are governed by this subsection.

A. Investigative records relating to complaints that the commission has voted to pursue are confidential unless they are provided to commission members or otherwise distributed at a public hearing of the commission.

B. Legislators' statements of sources of income are public records.

C. Findings of fact and recommendations of the commission on complaints alleging violation of legislative ethics are public records.

D. Advisory opinions of the commission and requests for advisory opinions from the commission are public records, except as provided in subsection 2, paragraph H.

5. Prohibited communications. Communications concerning a complaint filed under this section between commission members and a complainant or between commission members and the subject of a complaint are prohibited until after the commission has voted not to pursue a complaint or the commission has taken final action on the complaint.

1 § 1014. Violations of legislative ethics

1. Situations involving conflict of interest. A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless a presiding officer in accordance with the Joint Rules of the Legislature requires a Legislator to vote or advises the Legislator that there is no conflict in accordance with section 1013, subsection 2, paragraph K. A conflict of interest includes:

A. When a Legislator or a member of the Legislator's immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise that would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation;

B. When a Legislator or a member of the Legislator's immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in an entity affected by proposed legislation and the Legislator knows or reasonably should know that the purpose of the donor in making the gift is to influence the Legislator in the performance of the Legislator's official duties or vote or is intended as a reward for action on the Legislator's part;

C. Receiving compensation or reimbursement not authorized by law for services, advice or assistance as a Legislator;

D. Appearing for, representing or advocating on behalf of another before the Legislature, unless without compensation and for the benefit of a citizen;

E. When a Legislator or a member of the Legislator's immediate family accepts or engages in employment that could impair the Legislator's judgment, or when the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded the Legislator or a member of the Legislator's immediate family with intent to influence the performance of the Legislator's official

duties, or when the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community; and

F. When a Legislator or a member of the Legislator's immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of the Legislator's immediate family is engaged, and the benefit derived by the Legislator or a member of the Legislator's immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

2. Undue influence. It is presumed that a violation of legislative ethics conflict of interest exists when there are circumstances that involve a substantial risk of undue influence by a Legislator, including but not limited to the following cases.

A. Appearing for, representing or assisting another in a matter before a state agency or authority, unless without compensation and for the benefit of a constituent, except for attorneys or other professional persons engaged in the conduct of their professions.

(1) Even in the excepted cases, an attorney or other professional person must refrain from references to that attorney or professional person's legislative capacity, from communications on legislative stationery and from threats or implications relating to legislative action.

B. Representing or assisting another in the sale of goods or services to the State, a state agency or authority, unless the transaction occurs after public notice and competitive bidding.

3. Abuse of office or position. It is a violation of legislative ethics for a Legislator to engage in conduct that constitutes an abuse of office or position, including but not limited to:

A. When a Legislator or a member of the Legislator's immediate family has a direct financial interest or an interest through a close economic associate in a contract for goods or services with the State, a state agency or state authority unless the contract is awarded through competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws or the payment provisions are based on uniform rates established by the State, a state agency, a state authority or other governmental entity;

B. Granting or obtaining special privilege, exemption or preferential treatment to or for oneself or another, which privilege, exemption or treatment is not readily available to members of the general community or class to which the beneficiary belongs; and

C. Use or disclosure of confidential information obtained because of office or position for the benefit of self or another.

4. Contract with state governmental agency. It is a violation of legislative ethics for a Legislator or an associated organization to enter with a state agency into any contract that is to be paid in whole or in part out of governmental funds unless the

contract has been awarded through a process of public notice and competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws.

CHAPTER 15

LOBBYIST DISCLOSURE PROCEDURES

3 § 312-A. Definitions [SOME DEFINITIONS ARE OMITTED, AND SOME ARE INCLUDED FOR CONTEXT. THE ONLY PROPOSED CHANGE IS TO THE TERM LOBBYIST IN SUBSECTION 10.]

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

4. Compensation. "Compensation" means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

5. Employer. "Employer" means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

6. Employment. "Employment" means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

7. Expenditure. "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.

9. Lobbying. "Lobbying" means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor's cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. "Lobbying" includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer, or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. "Lobbying" does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

10. Lobbyist. "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate. An individual who lobbies on behalf of another person is not a lobbyist if that individual receives no compensation for lobbying other than reimbursement for lobbying-related travel within the state.

10-A. Lobbyist associate. "Lobbyist associate" means an individual who:

- A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist;
- B. Lobbies on behalf of the employer named on the lobbyist registration; and
- C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

3 § 317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

- E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subject 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure;

G-1. The date, and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$250 or more;

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all original sources who have contributed or paid \$1,000 or more during the lobbying year, directly or indirectly, to the employer for purposes of lobbying. If the original source is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

2. Annual report. Thirty days following the end of the year in which any person lobbied pursuant to section 313, the lobbyist and the lobbyist's employer shall file with the Commission a joint report that must contain the information required in subsection 1, for all lobbying activities for the year.

The information in reports required by subsection 1 must be approved signed by the lobbyist or by a person designated by the lobbyist in section 316, subsection 1. The information in reports required by this subsection must be approved signed by both the lobbyist or designated person and the employer.

If the date any report required by this section is due falls on a day other than a regular business day, the report is due on the first regular business day next following the due date.

In addition to the amounts identified in subsection 1 as compensation received or expenditure made for the primary purpose of lobbying, this annual report must include the total amount of compensation received by the lobbyist or the lobbying firm, or expended by the employer, except compensation received or expended for purposes not related to lobbying.

[SUBSECTIONS 2-A – 4 OMITTED]